

**REMARKS**

Claims 4, 6-8, 12 and 15-17 remain in this case.

Claims 4-9, 12, 15 and 17 have been rejected as being anticipated by or obvious over the newly cited patents to Tucker and Nystad. Applicant notes that claim 16 has not been specifically rejected. However, based upon the claim rejections on page 3 of the Office Action, applicant assumes the Examiner is referring to claims 16 and 17 and not claims 15 and 17.

The patents to Tucker and Nystad are directed to beds or mattresses. Therefore, neither would be suitable for use in doing push-ups. **Claim 4** now recites "the device being sized for use as a push up exercise device;". There is nothing in either of these references suggesting reducing the lateral size of either of the structures disclosed in the references sufficiently to make them useful for use as a push up exercise device. Accordingly, claim 4 is allowable over the cited art.

**Claim 8** has been amended to recite "elastic means for decreasing the force required to be exerted by a user during an exercise by adding an elastic element to the spring element." In contrast, any change in the resistance provided by the structures disclosed in the patents to Tucker and Nystad would involve adding or subtracting water or air, not an elastic element. There would have been no reason to modify the structures of Tucker and Nystad because doing so would not have been needed and would simply add to the complexity and require additional structural features. Therefore, claim 8 is allowable over the cited art.

**Claim 16** recites in part as follows.

a coil spring between the top and the bottom of the device, the coil spring comprising coils;  
spacers, the compression force between the coils being adjustable by adding spacers between the coils;

**Claim 17** recites in part as follows.

a loop spring between the top and the bottom of the device;  
an elastic band, the compression force between the top and the bottom of the loop spring being adjustable by adding at least one said elastomeric band around the loop spring;

In the rejection of **claims 16 and 17** over the patent to **Tucker**, the Examiner states that it would have been obvious "to substitute a spring element for a coil or loop spring since the equivalents of a coil and spring are known to would be within the level of ordinary skill in the art." While in some situations a coil spring and a loop spring may be equivalents, that is not the issue here. Rather, the issue as whether it would have been obvious to replace the pneumatic spring structure of Tucker with a coil spring (claim 16) or a loop spring (claim 17). There is nothing in Tucker suggesting either replacement would be desirable. In fact, making such a replacement would result in

an essentially complete redesign of the Tucker structure. In addition, claim 16 now more specifically recites spacers used between the coils to adjust the compression force and claim 17 now more specifically recites an elastomeric band placeable around the loop spring to adjust the compression force. There is nothing in Tucker suggesting the use of spacers or elastic bands as claimed. Accordingly, claims 16 and 17 are allowable over the **Tucker** patent.

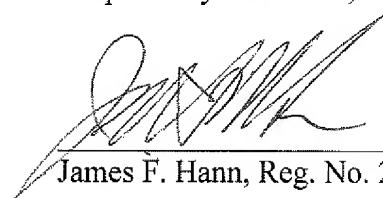
In the rejection of **claims 16 and 17** over the patent to **Nystad**, the Examiner states that it would have been obvious "to substitute a spring element for a coil or loop spring since the equivalents of a coil and spring are known to would be within the level of ordinary skill in the art." While in some situations a coil spring and a loop spring may be equivalents, that is not the issue here. Rather, the issue as whether it would have been obvious to replace the water bed (water mattress 1 with air pockets 10) support structure of Nystad with a coil spring support structure (claim 16) or a loop spring support structure (claim 17). There is nothing in Nystad suggesting either replacement would be desirable. In fact, doing either would require a complete redesign of the Nystad structure. In addition, 16 now more specifically recites spacers used between the coils to adjust the compression force and claim 17 now more specifically recites an elastomeric band placeable around the loop spring to adjust the compression force. There is nothing in Nystad suggesting the use of spacers or elastic bands as claimed. Accordingly, claims 16 and 17 are allowable over the **Nystad** patent.

#### CONCLUSION

In light of the above remarks and the amendments to the claims, applicant submits that the application is in condition for allowance and action to that end is urged. If the Examiner believes a telephone conference would aid the prosecution of this case in any way, please call the undersigned at (650) 712-0340.

Respectfully submitted,

Dated: 7 August 2006

  
James F. Hann, Reg. No. 29,719

HAYNES BEFFEL & WOLFELD LLP  
P.O. Box 366  
Half Moon Bay, California 94019  
Phone: 650-712-0340  
Fax: 650-712-0263